
**AMERICAN GAMING ASSOCIATION COMMENTS RE:
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF LOTTERY AND GAMING
PUBLIC ROUNDTABLES on
PRIVATE-OPERATED SPORTS WAGERING PROPOSED RULEMAKING**

June 21, 2022

Frank Suarez, Director
Office of Lottery and Gaming
2235 Shannon Place S.E.
Washington, D.C. 20020

Director Suarez,

Thank you for conducting the series of public roundtable meetings to solicit comments regarding possible amendments to the Office of Lottery and Gaming's ("Office") privately operated sports wagering rules.

The American Gaming Association (AGA) is the premier national trade group representing the \$261 billion U.S. casino industry, which supports 1.8 million jobs across the country. Our membership consists of more than 70 commercial and tribal casino operators, U.S.-licensed gaming suppliers and equipment manufacturers, licensed sports wagering operators, financial institutions, food and beverage suppliers, and other key stakeholders in the gaming industry. As legal sports wagering has expanded across the United States, AGA continues to provide our perspective on policymaking decisions that are important to the success of this nascent market. Among those core policy principles are creating a competitive economic environment and promoting customer convenience, which are integral to enable legal sports books to supplant established, illegal channels that enjoy many competitive advantages.¹

Unfortunately, the District continues to fall significantly short of the nearly \$92 million in tax revenue forecasted by the Chief Financial Officer ("CFO") for Fiscal Years 2019 through 2022.² The Office and CFO have reduced their sports wagering revenue forecasts on multiple occasions and mobile sports wagering revenue operations in the District continue to not meet updated forecasts.³ In Year 1, the District made \$0. In Year 2, the District made \$352,000. And last year, the District lost \$4 million.⁴

¹ AGA Policy Principles: <https://www.americangaming.org/wp-content/uploads/2020/07/AGA-Sports-Betting-Principles-Final.pdf>

² D.C. Chief Financial Officer Jeffrey S. DeWitt, [Fiscal Impact Statement – Sports Wagering Lottery Amendment Act of 2018](#).
November 28, 2018.

³ For example, the previous Interim Executive Director of the Office of Lottery and Gaming testified during a Fiscal Year 2022 Budget Oversight Hearing that OLG estimated that the District would generate \$6.2 million in DC sports wagering tax revenue from District-wide mobile sports wagering operations, GamBetDC. At the time, the District had only generated \$230,000 from GamBetDC operations and only four months remained in the fiscal year. Committee on Business and Economic Development, "Fiscal Year 2022 Budget Oversight Hearing." June 17, 2021. The \$6.2 million forecast – which was ultimately not met – was already lowered by more than 75% from the CFO's original forecast of nearly \$26 million.

⁴ Office of the Chief Financial Officer, Office of Lottery and Gaming, "Responses to Questions, Committee on Business and Economic Development, Performance Oversight Hearing." March 3, 2022, available at <https://dccouncil.us/wp-content/uploads/2022/03/OLG-2021-2022-Performance-Oversight-Hearing-Responses-to-Committee-Questions.pdf> (last visited June 15, 2022).

Recommendation: promulgate regulations to license District-wide private mobile sports wagering operators

The Office can improve the revenue figures through the privately-operated sports wagering rules process. The D.C. Code authorizes the Office to convert to a competitive, District-wide mobile sports wagering market without limit to the number of licenses issued, or through contract with a limited number of partners,⁵ similar to its neighbors in Maryland and Virginia.

Currently, the Office’s privately operated sports wagering rules do not authorize the Office to license private sports wagering operators to offer a mobile sports wagering product to District consumers outside of the premises of licensed Class A and Class B facilities.⁶ As highlighted below, the District could have generated millions in tax revenue last year with District-wide private mobile wagering operations. Compared to other jurisdictions that have legalized mobile sports wagering – even after adjusting for population – the District’s revenue figures are underperforming and consumers are wagering three times more in person than on a mobile device, which is the inverse trend of any other jurisdiction with mobile sports wagering. With Virginia’s mobile sports wagering operations live and Maryland on track to launch mobile within a year, the revenue figures are likely to be absorbed even more by neighboring jurisdictions with multiple mobile sports wagering options available to consumers once they cross state lines.

Fiscal Year 2021

It is clear from the past three years of data provided by the Office that the District would have generated significantly more revenue had the Office licensed mobile sports wagering operators to operate across the District as opposed to limiting mobile sports wagering by private operators to Class A and Class B locations. For example, a recent report by the Office of the District of Columbia Auditor examined sports wagering revenue figures from Illinois⁷ and Colorado – which went live with mobile sports wagering within the same period as the District and license multiple private, online sports wagering operators – and found the two states experienced substantial spikes during the peak 2020 football season and an overall increasing trend while the District’s mobile sports wagering revenue remained mostly flat.⁸

For Fiscal Year 2021, conservative estimates suggest the District would have generated anywhere from \$3.6 million to \$5.7 million in tax revenue from mobile sports wagering as opposed to a \$4 million loss under the current framework. According to prominent gaming research company Eilers & Krejcik, the District is projected to only generate approximately \$29 million in gross gaming revenue under a retail only model.⁹ That estimated number is virtually identical to what the District generated in Fiscal Year 2021 – \$29.3 million – despite the availability of a mobile sports wagering option for customers. Eilers &

⁵ D.C. Code § 36–621.11(a)(2).

⁶ 66 DCR 11598 (August 30, 2019).

⁷ It is worth highlighting that Illinois’ revenue figures were significantly higher than the District’s – including after adjusting for population – despite an in-person registration requirement for mobile sports wagering customers, which was only eliminated this past March. See Public Act 102-0689 (December 17, 2021).

⁸ Office of the District of Columbia Auditor, “D.C. Sports Gambling Fails to Meet Expectations.” September 9, 2021, available at <https://dcauditor.org/report/d-c-sports-gambling-fails-to-meet-expectations/>.

⁹ Eilers & Krejcik Gaming, “Legal Sports Betting: Defining The U.S. Opportunity.” Updated January 2021.

Krejcik predicts the District will generate over \$47.1 million in gross gaming revenue – a 67% increase – if the District permits private operators to operate District-wide mobile sports wagering apps.¹⁰

Revenue Comparison with other States (September 2021 – April 2022)

In comparing the District’s sports wagering revenue figures with four other states – Colorado, Iowa, Virginia and West Virginia – one thing is clear: the District is not maximizing revenue, even when the figures are adjusted for population. The explanation lies in the mobile sports wagering marketplace.

In most jurisdictions with a fully mobile and competitive market over 80% of wagers and gross gaming revenue comes from mobile sports wagering. And that was the trend for sports wagering prior to the pandemic. Conversely, in 2021 less than 25% of the amount wagered in the District of Columbia was done so on GamBetDC, the only District-wide mobile sports wagering app. The reasons for the anomaly have been widely documented, and include less favorable odds¹¹ and poor consumer ratings of the app itself.¹² If the Office licensed private mobile sports wagering operators, such as those licensed for in-person mobile sports wagering at Class A and Class B facilities, the District would generate significantly more revenue.

State	Launch Date	Pop.	Mobile Operators (#)	Handle	Mobile (%)	GGR (taxable revenue)
Colorado	May 1, 2020	5.75M	26	\$3.75B	98.73%	\$217.8M
D.C.	May 28, 2020	700K	1	\$164.19/ 5M	24.66%	\$16.8M
Iowa	Aug. 15, 2019	3.17M	18	\$1.98B	90.07%	\$95M
Virginia	Jan. 21, 2021	8.51M	13	\$3.31B	100%	\$277.5M
West Virginia	Aug. 30, 2018 (Retail) Aug. 26, 2019 (Mobile)	1.79M	6	\$481.1M	81%	\$34M

Surrounding Jurisdictions (Virginia and Maryland)

The District is now bordered by two states that have legalized mobile sports wagering: Virginia and Maryland. Both states permit up to 19 and 60 direct mobile sports wagering licenses, respectively.

¹⁰ *Id.*

¹¹ Matt Bonesteel and Neil Greenberg, “At first glance, the D.C. sports gambling site is a bad bet.” *The Washington Post*, May 28, 2020, available at <https://www.washingtonpost.com/sports/2020/05/28/first-glance-dc-sports-gambling-site-is-bad-bet/> (last visited June 15, 2022).

¹² GambetDC: Sportsbook, Intralot’s mobile sports betting app, has a 1.5 rating on the Apple App store. App Store Preview, available at <https://apps.apple.com/us/app/gambetdc-sportsbook/id1504138199> (last visited June 15, 2022).

Virginia launched sports wagering in January 2021, 8 months after the District of Columbia.¹³ Despite the absence of a “first-to-market” advantage, Virginia generated over \$3.2 billion in handle, compared to the District’s \$203 million in the same year. Even when adjusted for population, the more novel sports wagering market in Virginia witnessed more wagered than the District in the same time period by 30%. Virginia’s successful competitive mobile sports wagering market led the commonwealth to increase the original cap on mobile sports wagering licenses from 12 to 19 during the next legislative session.¹⁴

Maryland is not far behind. The state launched retail sports wagering, including onsite at the casinos and other licensed facilities, in December 2021 without any in-person mobile sports wagering app options and yet it significantly outperforms the District in handle and gross gaming revenue. Since the launch through April 2022, Maryland has generated \$132.5 million in handle and \$15.3 million in gross gaming revenue, while the District only generated \$95.7 million and \$6.9 million, respectively, in that same period. Despite Maryland’s greater revenue figures with retail sports wagering, pressure continues to build in the state to expedite the launch of mobile and realize significantly higher revenue. Governor Hogan recently sent a letter to the Sports Wagering Application Review (“SWARC”) – the applicable body responsible for issuing licenses – imploring SWARC to finalize regulations and issue licenses because the state “is losing tens of millions of dollars in economic investment and education revenue...”¹⁵ When mobile sports wagering launches in Maryland, the District will continue to lose out on revenue from Maryland visitors and commuters unless the District permits Marylanders to use the same apps available in their resident state. Moreover, District residents will continue to cross the state line to wager on sports – but in larger numbers – once it can be done by a mobile phone or any other Internet-connected device provided by a top brand. Or worse: they will continue to wager on one of the dozens of illegal offshore websites readily available right now to District residents.

Conclusion

To maximize sports wagering revenue in the District of Columbia, AGA recommends the Office directly license private operators to offer District-wide mobile sports wagering products. Consumers overwhelmingly prefer to wager on their phone or an Internet-connected device than in-person at a retail location, as demonstrated in every state other than District. With Virginia’s market continuing to grow and Maryland on the cusp of launching mobile sports wagering, the District will continue to see a decline in sports wagering revenue if it does not adopt a competitive mobile sports wagering market. Above all, a certain percentage of District residents will continue to wager illegally through offshore websites without consumer protections unless they have the same conveniences available to them in the licensed and regulated sports wagering market. Therefore, the Office should adopt regulations authorized under the law¹⁶ that permit private operators to obtain a license and offer District-wide mobile sports wagering products.

¹³ Martin Austerhuhle, “Sports Betting App Launches In Virginia, With More Soon To Come.” DCist.com, January 22, 2021, available at <https://dcist.com/story/21/01/22/sports-betting-app-launches-virginia/> (last visited June 15, 2022).

¹⁴ VA LEGIS 1SS 352 (2021), 2021 Virginia Laws 1st Sp. Sess. Ch. 352 (S.B. 1254).

¹⁵ Governor Larry Hogan, “Letter to the Sports Wagering Application Review Commission.” June 15, 2022, available at https://governor.maryland.gov/wp-content/uploads/2022/06/Governor-Hogan-Letter-to-SWARC_6.14.22.pdf (last visited June 16, 2022).

¹⁶ Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402).